IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

JUDGES ORDER NO.115 OF 2005
IN
SUIT NO.6930 OF 1999

Darayas Burjor Billimoria ..Plaintiff.

V/s.

Sudhir Vasu Shetty and 22 ors. ..Defendants.

And

M/s.Skyline Advertisers and 2 ors. ..Applicants.

Mr.S.I.Menon for applicants.

Mr.Niranjan Lapsia i/b Niranjan & co. for plaintiff.

Ms.Sonali Shinde i/b Consulta Juris for respondents.

Mr.Malvankar, representative of court receiver present.

CORAM: A.M.KHANWILKAR,J

DATE : OCTOBER 27, 2005.

P.C. :

1. Heard counsel for the applicant as well as plaintiff. In my opinion, order in terms of Judge's order deserves to be passed in favour of the applicant on condition that the applicant shall make good costs towards legal expenses to be incurred by the court receiver in the proposed suit.

2. This order is however, opposed by the plaintiff on the argument that the stand taken by the

applicant before this court as is recorded in order dated 16th August, 2001 is that the applicants have been permitted to put up hoarding on the suit property by the defendant No.1 for a period of 5 years from the year 1999 to 31st August, 2005; and since that period is over no relief can be claimed by the applicant. Counsel for the applicant on the other hand submits that the case of the applicant in the proposed suit is that irrevocable licence was executed in favour of the applicant. That question will be put in issue in the proposed suit. Suffice it to observe that dispute between the parties regarding right, title and interest can not be the basis to decide the present application, for these questions will be relevant at the trial. Accordingly, the present application is granted in terms of Judge's order, on condition as referred to above. Applicants shall deposit initially a sum of Rs.10,000/- with the court receiver and also undertake to deposit further amount as and when called upon by the court receiver towards the expenses to be incurred by the court receiver in the proposed suit and any further proceedings arising therefrom.

3. All other questions between the applicants

and plaintiff are left open with liberty to the plaintiff to take recourse to such remedy, as may be permissible in law for enforcement of directions contained in order dated 16th August, 2001.